Supreme Court, U. S.
FILED
OCT 18 1978
MICHAEL RODAK, JR., CLERK

# IN THE SUPREME COURT

OF THE

# UNITED STATES

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OCTOBER TERM, 1977

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NO. 77-1636

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ROSALIE REED,

Petitioner,

vs.

THE CITY OF LOS ANGELES, RECREATION AND PARKS DEPARTMENT OF SAID CITY, AND THE CIVIL SERVICE COMMISSION OF THE CITY OF LOS ANGELES,

Respondents.

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Petition for Writ of Certiorari
To The Supreme Court Of The
State of California

# PETITION FOR REHEARING

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Petition for Writ of Certiorari to the Supreme Court of the State of California

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PETITION FOR REHEARING

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Petitioner hereby requests a rehearing and reconsideration of the Petition for Writ of Certiorari



previously filed in this action. We fear the chance of this rehearing being granted is about as great as the coyote has in changing the direction of the moon by howling in the middle of the desert. Nevertheless, we suggest justice will not be done in this case unless a rehearing is granted.

The following questions are based on undisputed facts in the record, and we ask these questions in urging this reconsideration:

1. Where is there justice in a system in which the rule of law established by a decision of this Supreme Court is violated by local government, and this Court then takes no action to see that its previously announced decision is followed?

2. Where is there justice in a system which says a judicial body may

not exercise its own independent judgment, and instead must have approval of its action from the executive branch of government?

3. Where is there justice in a system which denies a penalized employee the right to present evidence in defense against false charges, a system in which the judicial body (Civil Service Commission) is represented and advised by the same attorney who prosecuted the case against the employee?

4. Where is there justice in a system in which government may discriminate against a tenured employee based on race and sex?

## ARGUMENT

### I

### WHERE IS THERE JUSTICE IN A SYSTEM IN WHICH THE RULE OF LAW ESTABLISHED BY A DECISION OF THIS SUPREME COURT IS VIOLATED BY LOCAL GOVERNMENT, AND THIS COURT THEN TAKES NO ACTION TO SEE THAT ITS PREVIOUSLY ANNOUNCED DECISION IS FOLLOWED?



In Arnett v. Kennedy, 416 U.S. 134, decided April 16, 1974, this Court said a tenured civil service employee is entitled to at least a minimal predischarge hearing. The undisputed facts of this case, as shown by the Writ previously filed, establish that Petitioner was summarily discharged five months after Arnett on September 6, 1974, and had no such predischarge hearing. We suggest that the decisions of this Court are meaningless if they can be so quickly violated, and this Court will take no action when the facts are presented.

Further, the undisputed facts establish that the Respondent City of Los Angeles had a written rule (existing prior to Petitioners being hired and at

the time she was discharged) mandating such a predischarge hearing, even specifying the persons to be present and requiring a written report. This rule of law was not followed by Respondent.

II

WHERE IS THERE JUSTICE IN A SYSTEM WHICH SAYS A JUDICIAL BODY MAY NOT EXERCISE ITS OWN INDEPENDENT JUDGMENT, AND INSTEAD MUST HAVE APPROVAL OF ITS ACTION FROM THE EXECUTIVE BRANCH OF GOVERNMENT?

Under the Charter of the City of Los Angeles, the final and only administrative judicial body (Civil Service Commission) is charged with hearing appeals of employees who believe they have been wrongfully discharged or penalized. However, under that same Charter that judicial body may not alter the penalty unless the person from the executive



branch who originally imposed the penalty approves the alteration! Where is there a separation of powers under such a Charter provision?

Further, where is due process when that same Civil Service Commission, composed of lay individuals, has as its legal adviser the same attorney who acts as prosecutor against the penalized employee in hearings before the Civil Service Commission?

III

WHERE IS THERE JUSTICE IN A SYSTEM WHICH DENIES A PENALIZED EMPLOYEE THE RIGHT TO PRESENT EVIDENCE IN DEFENSE AGAINST FALSE CHARGES, A SYSTEM IN WHICH THE JUDICIAL BODY (CIVIL SERVICE COMMISSION) IS REPRESENTED AND ADVISED BY THE SAME ATTORNEY WHO PROSECUTED THE CASE AGAINST THE EMPLOYEE?

The City Attorney of Los Angeles filed a response to our original Petition for Writ of Certiorari, claiming that the issues of racism and sexism had not been raised in any of the courts below. Petitioner filed a Response, attaching portions of the Briefs from the courts below to establish that these issues had been raised, thus proving the allegations of the City Attorney to be false. The record bears out that racism and sexism dictated the decision in this case which caused Petitioner, a licensed, Black, female Doctor of Veterinarian Medicine to lose her tenured position. Further the record establishes without dispute that the person discharging Petitioner had been employed by the City for only four months, thus he was without tenure, and he fired her for acts allegedly occurring prior to his being hired! We suggest a denial of the Petition for



Certiorari in this case means that government may discriminate against an individual because of that individual's race and/or sex.

FACTS

Our Petition for Certiorari set forth the facts of this case. Briefly they establish that this young Black woman, Dr. Rosalie Reed, was a tenured Doctor of Veterinarian Medicine at the Los Angeles Zoo. She was advised in advance of the new Zoo Director's arrival that he was a racist, as he had systematically attempted to get rid of all Blacks at the Omaha Zoo where he had at one time been employed. His first words to Dr. Reed were "Why are you so damn tall", and within four months of his employment (without an examination) he fired Dr. Reed for acts allegedly occurring prior to his arrival. She was given no predischarge hearing of

any kind, even though this Court had issued its decision in Arnett prior to that discharge, and further in direct violation of a rule of the department in which she worked which mandated a predischarge hearing before designated individuals, and which further required the issuance of a report before the discharge could be effective.

The lawyer she retained didn't even discover the decision of this Court in Arnett, nor the existence of the rule in the department in which she worked, thus never raising the issue, instead starting Petitioner out in a hearing, and then unilaterally withdrawing as her attorney before the hearing was completed! The Commission hearing officer failed to recall witnesses previously subpoenaed by Petitioner, although he had agreed to do so when he continued the case, and at the next hearing he scheduled he



refused a continuance even though those witnesses were not present, and Petitioner was unrepresented by counsel.

The hearing officer, who evidenced his racism and sexism by shouting at Petitioner, and by refusing to continue her case so that her witnesses could be present filed a recommendation with the Civil Service Commission recommending discharge.

Thereafter, the Civil Service Commission unanimously adopted a motion calling for only a 60-day suspension, but under the Charter of the City of Los Angeles that judicial body had to have approval of its action by the very man who fired Dr. Reed initially! Of course he would not approve the Commission decision.

CONCLUSION

We suggest that justice must mean that this Court's decisions will be

followed, and if not this Court will take action. We further suggest that due process should at least allow a penalized employee the opportunity of presenting his or her case, and not have a hearing officer prevent that presentation by failing to return witnesses after the hearing officer stated he would have them returned. We further suggest that a judicial body of law individuals being advised by the same attorney who prosecutes the case against the charged employee, is no judicial body at all--but is only the servant of the executive branch. And finally we suggest there is no justice if racism and sexism can be the basis for discharging a tenured civil service employee.

We find it difficult to believe that the nine (9) Justices of this Supreme Court looked at our Petition for Writ of Certiorari and then voted to deny the



same. We of course do not know the inner workings of the Court, but we hope and pray this Court will rehear our Petition for Certiorari and will grant the same. It is not only the mental and economic well-being of Petitioner which is at stake, but also it is the question of finding a system that will see justice done.

CERTIFICATE

The undersigned certifies that this Petition for Rehearing is presented in good faith, not for delay, and it is believed restricted to the grounds specified in Rule 58(2).

Respectfully and hopefully submitted this 13th day of October, 1978.

THORNE, CLOPTON & HERZ

By _____
JOHN E. THORNE
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